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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,401	12/18/2000	David John Carew	AUS920000854US1	5846

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EXAMINER

HUYNH, CONG LAC T

ART UNIT PAPER NUMBER

2178

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/740,401

Applicant(s)

CAREW ET AL.

Examiner

Cong-Lac Huynh

Art Unit

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: the application filed on 12/18/00.
2. Claims 1-32 are pending in the case. Claims 1, 9, 13, 18-19, 27, 31-32 are independent claims.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: the menu 400 is not in figure 4 as stated in the specification (page 11). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to since the menu 400 (page 10, line 31 to page 11, line 4) is not in figure 4 as stated. Further, there are mistakes in assigning the item numbers associated with the items since these numbers are not consistent with the numbers in the figure 4. For example, 406 is for "check from open source file", 408 is for "check external resource file", etc. (page 11). Applicants are requested to check and correct these mistakes either by correcting the specification or correcting the drawings to have the consistency of the disclosure.

Double Patenting

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claim 3 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzik et al. (US Pat No. 4,456,969, 6/26/84).

Regarding independent claim 1, Herzik discloses:

- receiving computer source code for processing (col 1, lines 49-64: the control codes are inserted into the text document for defining the language of the text for spell checking, therefore, the computer source code including codes and text must be received for processing; col 4, line 65 to col 5, line 6: all the text of the document and the embedded control codes are entered before performing spell checking)
- checking the displayable text for errors (figure 7 and col 1, lines 49-64: checking the text, which is obviously displayed on the screen, following the control codes against the storage dictionary associated with the control codes)

Herzik does not explicitly disclose identifying displayable text within the computer source code. However, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified Herzik to include identifying

displayable text within the computer source code for the following reason. The computer source code received by the computer system for spell checking includes the control codes and the text of the document. Therefore, it is suggested that the system parse the source code to spell check the text only since the control codes are merely the instructions of how to run a spell check process.

Regarding claims 2 and 3, which are dependent on claim 1, Herzik discloses that the computer source code is located in a resource file (col 2, lines 55-62: memory 23 is a resource to store both instructions and data, the computer source code includes both control codes and text data, and thus is located in a resource file in the memory).

Regarding claim 4, which is dependent on claim 1, Herzik discloses that identifying step comprises locating text between a set of delimiters as the displayable text (col 4, lines 40-53: the starting point and the end point in the text to start and to end the spell checking shows that the text is located between the delimiters).

Regarding claim 5, which is dependent on claim 1, Herzik discloses that the text is a set of literal strings (col 1, lines 9-13, 49-64: the text words mentioned are literal strings).

Regarding claim 6, which is dependent on claim 1, Herzik discloses that checking step includes:

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- selecting a dictionary (col 1, lines 49-64 and figures 7 and 8: selecting a language of the storage dictionary for spell checking the text)
- spell checking the displayable text using the dictionary (figures 7-8: spelling check the text using the selected dictionary)

Regarding claim 7, which is dependent on claim 1, Herzik discloses that the dictionary is selected using a user input (figures 7-8: the language dictionary is selected when a user input the type ID).

Regarding claim 8, which is dependent on claim 1, Herzik discloses locating a pointer in the source code to a resource file containing the displayable text (col 4, lines 40-53: the point in the source code where to begin the spell check the text suggest locating a pointer at that point).

Regarding independent claim 9, Herzik does not explicitly disclose:

- searching source code for a first delimiter indicative of displayable text
- responsive to finding the first, spell checking text after the first delimiter until a second delimiter is encountered

Instead, Herzik discloses:

- inserting instructions in the text at the present operating point to start the spelling verification (col 4, lines 36-53)

- performing spell checking until encountering the code to end the spell check process (col 4, lines 36-53)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified to incorporate the searching step and the spell checking step with the first and second delimiters to start and end the part of text for spell checking for the following reason. The fact that Herzik teaches inserting an instruction in the text at *the present operating point* suggests searching for a *first delimiter* at the present point since it was obvious that each two words in the text and the source code are separated by a space which is a delimiter. Also, the fact that *the start point and the end point* in the text are selected to show the part of text where the spell checking is applied also further suggests a *second delimiter* to end said part of text.

Regarding claim 10, which is dependent on claim 9, Herzik discloses that the source code is located in a file (col 2, lines 55-62: memory 23 is a resource to store both instructions and data, the computer source code includes both control codes and text data, and thus is located in a resource file in the memory).

Regarding claim 11, which is dependent on claim 9, Herzik discloses that the text is checked using a selected dictionary (col 1, lines 49-64, figures 7-8, col 1, lines 49-63, col 4, lines 56-67).

Regarding claim 12, which is dependent on claim 9, Herzik discloses that the text is displayable when the source code is compiled and executed (figures 6 and 7: the fact that the system program allows selecting the options of beginning and ending spell checking at a certain point of the text inherently indicates that the text is displayable when the source code is compiled and executed for selecting).

Claims 13-17, 18 are for a data processing system of method claims 1 and 9, and are rejected under the same rationale.

Claims 19-26, 27-30 are for a system of method claims 1-8 and 9-12 respectively, and are rejected under the same rationale.

Claims 31 and 32 are for a program product of method claims 1 and 9, and are rejected under the same rationale.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kawanabe (US Pat No. 5,924,059, 7/13/99, filed 2/17/94).

Walfish et al. (US Pat No. 6,047,300, 4/4/00, filed 5/15/97).

Rutten et al. (US Pat No. 6,623,251 B1, 10/14/03, filed 12/30/98).

Travis (US Pat No. 5,765,180, 6/9/98, filed 10/3/96).

Gallup et al. (US Pat No. 6,658,627 B1, 12/2/03, filed 9/8/99).

Rubin et al. (US Pat No. 6,393,443 B1, 5/21/02, filed 8/3/98).

Yu (US Pat No. 6,556,841 B2, 4/29/03, filed 5/3/99).

Du et al., An approach to designing very fast approximate string matching algorithms, IEEE August 1994, pages 620-633.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cong-Lac Huynh whose telephone number is 703-305-0432. The examiner can normally be reached on Mon-Fri (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 703-308-5186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cong-Lac Huynh
Examiner
Art Unit 2178

Clh
2/21/04


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